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FREEDOM IN THE WORLD

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Burma

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OVERVIEW:

Burma's nominally civilian government made progress in peace negotiations with ethnic armed groups and continued its relaxation of controls over the media and civil society in 2013. However, the year was marked by weak government enforcement of the rule of law, increasing arrests of political activists for "unlawful public demonstrations," a gradual resurgence of political confrontation between the government and the opposition regarding proposed reforms of the 2008 constitution, and intensifying rivalry within the parliament, as well as between the government and parliament, that led to the suspension of a constitutionally mandated bill.

The country was also shaken by anti-Muslim riots, especially after March 2013. At least 77 people were killed, thousands of residents were displaced, and hundreds of properties, including religious sites, were destroyed. The government's failure to protect victims and punish perpetrators was well documented in the media. Beginning in July, a series of bomb explosions hit several major cities, killing at least three people and injuring 10 others, including an American tourist. Separately, contentious disputes over land grabbing and socially irresponsible business projects continued during the year.

2014 SCORES

STATUS

Not Free

FREEDOM RATING
(1 = BEST, 7 = WORST)

5.5

CIVIL LIBERTIES
(1 = BEST, 7 = WORST)

5

POLITICAL RIGHTS
(1 = BEST, 7 = WORST)

6

POLITICAL RIGHTS AND CIVIL LIBERTIES:

Political Rights: 9 / 40 [Key]**A. Electoral Process:** 3 / 12

The military, which had long controlled all executive, legislative, and judicial functions, handed power to the current government in March 2011 following the 2010 national elections, which were neither free nor fair. The process of drafting the 2008 constitution, which the elections put into effect, was closely controlled by the military and excluded key stakeholders such as the National League for Democracy (NLD). Although the charter establishes a parliament and a civilian president, it also entrenches military dominance and allows the

military to dissolve the civilian government if it determines that the “disintegration of the Union or national solidarity” is at stake. The charter’s rights guarantees are limited by existing laws and may be suspended in a state of emergency. The military retains the right to administer its own affairs, and members of the outgoing military government received blanket immunity for all official acts. The military budget is still not publicly available, although some parliamentary scrutiny of military affairs has recently become possible.

The bicameral legislature consists of the 440-seat People’s Assembly, or lower house, and the 224-seat Nationalities Assembly, or upper house. A quarter of the seats in both houses are reserved for the military and filled through appointment by the commander in chief, an officer who has broad powers and is selected by the military-dominated National Defense and Security Council (NDSC). The legislature elects the president, though the military members have the right to nominate one of the three candidates, with the other two nominated by the elected members of each chamber.

Ahead of the 2010 elections, the military leadership handpicked the election commission and wrote election laws designed to favor military-backed parties, leading the opposition NLD to boycott the polls. There were many allegations of rigged “advanced voting” and other irregularities. Ultimately, the military-supported Union Solidarity and Development Party (USDP) captured 129 of the 168 elected seats in the upper house and 259 of 330 elected seats in the lower house. The USDP also secured 75 percent of the seats in the 14 state and regional assemblies. The Rakhine Nationalities Development Party (RNDP) and the Shan National Democracy Party (SNDP) earned the second-highest percentage of seats in the Nationalities Assembly and People’s Assembly, respectively. However, the vote for ethnic minority parties would likely have been higher had balloting not been canceled in several minority-dominated areas. The National Democratic Force (NDF), a breakaway faction of the NLD that decided to contest the elections, won just four seats in the upper house and eight in the lower.

Outgoing prime minister Thein Sein, who had retired from the military to register as a civilian candidate, was chosen as president by the new parliament. Military ruler Than Shwe officially retired, but he reportedly retained influence through his allies in the new government.

In April 2012, the NLD participated in by-elections for both chambers of the parliament. The party won all 37 seats at stake in the lower house, with one seat going to party leader and longtime political prisoner Aung San Suu Kyi. In the upper house, the NLD captured four of the six seats that were contested, with the other two going to the USDP and the SNDP. However, voting was postponed in three constituencies in war-torn Kachin State.

B. Political Pluralism and Participation: 6 / 16

The 2010 Political Party Registration Law gave new political parties only 60 days to register, mandated that existing parties reregister, and required parties to expel members currently serving prison terms. However, during the 2012 by-elections, there were fewer restrictions on

party organization and mobilization, with only sporadic reports of mild interference. Many parties, including the NLD, convened meetings and rallies throughout the country.

Tu Ja, a former leader of ethnic Kachin rebels, was denied permission to form a political party and contest the 2010 and 2012 elections. In October 2013 he was granted approval to establish the Kachin State Democracy Party, which he would lead as chairman. However, minority groups continued to face restrictions on their political rights and electoral opportunities. In September 2013, the upper house of parliament took up a draft bill that would amend the Political Parties Registration Law to prohibit residents without full citizenship from forming political parties and contesting elections. The bill was introduced by the RNDP to curb political participation by the ethnic Rohingya minority, who were rendered stateless by a 1982 law and lack full citizenship documents.

C. Functioning of Government: 3 / 12

Since 2011 the government has allowed members of the parliament to speak about democratic rights. While the legislators' time to speak has often been severely limited, many of their speeches receive coverage in the domestic media, and they are not harassed for their remarks. Nevertheless, most of the parliament lacks electoral legitimacy, and the military remains a powerful force in politics and policymaking.

In July 2013, in the context of his personal and to some extent institutional rivalry with the president, the speaker of the parliament challenged the government's approach to peace talks with ethnic rebel groups, demanding direct involvement by the parliament and the military-dominated NDSC.

In August, the parliament decided to postpone discussion of a bill proposed by the Union Election Commission that would allow just 1 percent of constituents to initiate a recall process for elected lawmakers. The measure was supported by military members of parliament and opposed by elected members.

Although Aung San Suu Kyi has gained influence since joining the parliament in early 2012, she has been accused of failing to strongly challenge incumbent interests or alter state policy. Since August 2012 she has headed the parliamentary Committee for Rule of Law and Stability, which is tasked with supervising the compliance of four entities—the legislature, the judiciary, the civil service, and the media—with the rule of law. After a year of studying public complaints, investigating courts in many parts of the country, and meeting clients and officials, the committee submitted a seven-page report to the parliament. The report called for judicial independence and advised the authorities to work for peace. However, critics argued that the report lacked substantive detail and that communal violence, hate speech, corruption, and human rights violations in ethnic minority regions have continued unabated under the watch of the committee.

In December 2012, the government appointed Aung San Suu Kyi to head a commission charged with investigating

a November crackdown on local residents protesting the Letpadaung Mining Project, which is operated under a contract between the military-owned Union of Myanmar Economic Holdings Company (UMEHL) and China's Wanbao Mining. The commission's report, published in March 2013, urged the Chinese company to increase compensation payments to local farmers whose land was lost to the project. The commission did not recommend that the project's expansion be halted. Local communities, protesters, and international human rights groups strongly criticized the report.

In a system that still lacks transparency and accountability, corruption and economic mismanagement are rampant at both the national and local levels. Burma was ranked 157 out of 177 countries surveyed in Transparency International's 2013 Corruption Perceptions Index. The government's economic reforms continue to be marred by widespread allegations that they primarily benefit family members and associates of senior government officials. Tax evasion by top companies, including large construction firms, has drawn public attention. While the space for public debate of sensitive economic issues is still limited, there is a growing consensus that the country's future development will require more transparency.

Discretionary Political Rights Question B: -3 / 0

The government has long used violence, displacement, and other tactics to alter the demographics of states featuring ethnic unrest or insurgencies. In May 2013, authorities in Rakhine State reaffirmed a 2005 regulation barring Rohingya Muslims in two townships from having more than two children per couple. Another local order requires Rohingya couples to obtain official permission to marry. Rohingya Muslims who violate the order by cohabiting or having sex out of wedlock can face up to 10 years' imprisonment. According to the Arakan Project, there were 535 Rohingya men serving sentences for unauthorized marriages in mid-2013. Children born to unrecognized couples or beyond the two-child limit are denied legal status and services. Also during 2013, the authorities pressured internally displaced Rohingyas to register as "Bengalis," which would suggest that they are migrants from Bangladesh. Those who refused to identify as Bengalis were beaten and arrested.

Civil Liberties: 17 / 60

D. Freedom of Expression and Belief: 7 / 16

The government has allowed a more open media environment in recent years. An official censorship board was dissolved in 2012, and private daily newspapers were authorized in December 2012 for the first time since the 1960s. In November 2013, the lower house of parliament passed a Printing and Publishing Enterprise Bill after a consultative process that included input from its own committees, the Ministry of Information, the Interim Press Council, and media practitioners. The final bill, which had yet to be signed into law at year's end, was widely viewed as a step forward for press reform, as it would abolish prison sentences and reduce financial penalties for those found to be printing or publishing

without registration. Two other media reform bills made progress toward adoption during the year. Despite such gains, a number of restrictions and abuses remain. The year's worst violation of press freedom took place in December, when a reporter in Shan State was sentenced to three months' imprisonment for investigating and documenting judicial corruption. She was the first journalist to be jailed under the current government. Separately, an edition of *Time* magazine was banned in June due to its cover story on Buddhist religious violence against Muslims. The government justified the ban as a measure "to prevent further conflict."

Previous constraints on internet access have largely unraveled, and the primary limitations on the medium's growth are now bandwidth and the cost of connections. Internet activity is still subject to criminal punishment under broadly worded legal provisions. Legislation enacted in 2013 amended the Electronic Transactions Law, which has routinely been used to criminalize political activism. Under the amended Section 33, internet users would face fines or prison terms of 3 to 7 years, down from 7 to 15 years, for "any act detrimental to" state security, law and order, community peace and tranquility, national solidarity, the national economy, or national culture—including "receiving or sending" related information. Separately, journalists and others have faced organized cyberattacks and attempts to infiltrate their e-mail accounts.

The 2008 constitution provides for freedom of religion. It distinguishes Buddhism as the majority religion, but also recognizes Christianity, Islam, Hinduism, and animism. At times the government interferes with religious assemblies and attempts to control the Buddhist clergy. Buddhist temples and monasteries were kept under close surveillance after monk-led protests and a subsequent crackdown in 2007, and more recently in connection with some clergy's anti-Muslim activities. The authorities have also discriminated against minority religious groups, refusing to grant them permission to hold gatherings and restricting educational activities, proselytizing, and construction of houses of worship.

Anti-Muslim riots affected major cities during 2013, and there was an outpouring of hate speech against the Muslim minority. Social media played an undisputed role in amplifying racial and religious tensions, though they were also stoked by some state institutions and mainstream news websites. The 969 Movement, a loosely organized Buddhist group that agitates for the protection of Buddhist privileges, urged boycotts against Muslim-run businesses and disseminated anti-Muslim propaganda. It has also been accused of instigating violence. Some Buddhist monks have aggressively promoted a draft law that would restrict interfaith marriages.

Although the former military junta imposed severe restrictions on academic freedom, there have been signs of more open academic discussion since 2011, as well as eased restrictions on private education. There are growing efforts to reform the University of Rangoon, with significant support from foreign partners. Political indoctrination, however, remains a problem, especially in history texts. Academics, like journalists, have been subject to cyberattacks and alleged surveillance.

People continue to impose some restrictions on their

private discussions to avoid harassment by both state and nonstate actors, particularly in the context of religious violence. In February 2013, lawmakers established a special committee to identify a pseudonymous blogger who had criticized the parliament.

E. Associational and Organizational Rights: 4 / 12

Section 18 of the Peaceful Assembly and Peaceful Procession Law, which was adopted in July 2012, requires those who plan to stage a peaceful demonstration to obtain permission from the government. Proceeding without permission is punishable by one year in prison and a fine of 10,000 to 30,000 kyats (\$12 to \$35). According to a report released by Assistance Association for Political Prisoners (Burma) in October 2013, at least 29 people have been sentenced under Section 18, and 15 remained incarcerated. A bill under consideration in the parliament would repeal the section.

In November 2013 the parliament unveiled a draft Association Registration Law featuring simple, voluntary registration procedures for local and international nongovernmental organizations (NGOs) and no restrictions or criminal punishments. It had yet to be enacted at year's end. Although conditions have improved in recent years, both local and foreign NGOs continue to face regular restrictions on their activities, especially in ethnic minority regions.

The government violates workers' rights and represses union activity. Independent trade unions, collective bargaining, and strikes are illegal. However, garment workers have held strikes in Rangoon in recent years, with fewer repercussions than in the past. Various commercial and other interests continue to use forced labor despite a formal ban on the practice in 2000.

F. Rule of Law: 1 / 16

The judiciary is not independent. Judges are appointed or approved by the government and adjudicate cases according to its decrees. Administrative detention laws allow individuals to be held without charge, trial, or access to legal counsel for up to five years if the government concludes that they have threatened the state's security or sovereignty.

In keeping with President Thein Sein's pledge to release all political prisoners in Burma by the end of 2013, the government set up the Committee for Scrutinizing Remaining Political Prisoners in February 2013—with some civil society representation—to define the category of political prisoners, identify those still behind bars, report to the president, and coordinate a framework for their release. With a series of presidential pardons, the government subsequently released almost all of the political prisoners, including 57 in December 2013 alone. The government insists that all political prisoners have been freed, but according to civil society members of the committee, there are at least 33 prisoners of conscience still behind bars. Critics also note that releases of political prisoners have often coincided with high-profile diplomatic events, and freed inmates are warned that they must complete their old sentences if

they commit new offenses.

In 2013 the government met with 16 ethnic armed groups and reached an agreement that there should be a nationwide cease-fire accord and a political solution to the civil conflicts. Both government and parliamentary leaders publicly said Burma should adopt a form of federal union. However, multiple negotiations continued throughout the year, and fighting persisted in some areas. Some of the country's worst human rights abuses still take place in ethnic minority regions, mostly committed by government troops. The Kachin, Chin, Karen, and Rohingya minorities are frequent victims. In 2012, renewed fighting in Kachin areas resulted in over 100,000 people being displaced from their homes. Tens of thousands of ethnic minorities in Shan, Karenni, Karen, and Mon States still live in squalid relocation centers as a legacy of previous military campaigns.

The practices of Chinese companies in various extractive industries in Burma, in addition to the migration of hundreds of thousands of Chinese workers and businesspeople, have led to rising anti-Chinese sentiment in recent years.

LGBT (lesbian, gay, bisexual, and transgender) people face societal discrimination and harassment by police. The penal code assigns up to 10 years in prison for sex "against the order of nature," and although the law is rarely enforced, it is sometimes used by police for harassment or extortion. However, LGBT rights showed some progress in 2013, including the holding of public or semipublic pride events in Rangoon and Mandalay.

G. Personal Autonomy and Individual Rights: 5 / 16

When a household receives any guest staying overnight, the host family is required to register the guests at a neighborhood administrative office, submitting the guests' proof of citizenship and paying a "small donation" to the neighborhood fund. A joint team of township and neighborhood authorities occasionally visit houses to check for unregistered guests. In the aftermath of bomb blasts occurring in some major cities in October 2013, for instance, the authorities conducted checks in almost all city neighborhoods. Guests and households who fail to register them face prison sentences or fines.

Burmese women of some classes have traditionally enjoyed high social and economic status, but women remain underrepresented in the government and civil service. Notwithstanding the prominence of Aung San Suu Kyi, few women have achieved public recognition during the current political opening. There is a dearth of laws to protect women from violence and exploitation. Domestic violence and human trafficking are concerns, and women and girls in displacement or refugee camps are at an increased risk of sexual violence and exploitation by traffickers. In the past, the Women's League of Burma has accused the military of systematically using rape and forced marriage as weapons against ethnic minorities during counterinsurgency campaigns. There are complaints that both the government and ethnic armed groups do not allow women's participation in peace negotiations.

Scoring Key: X / Y (Z)

X = Score Received

Y = Best Possible Score

Z = Change from Previous Year

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